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File No.: Z-8132
Planner: Mike Corby

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: 1875425 ONTARIO LTD. 275-277 PICCADILLY STREET NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD MEETING ON JULY 23, 2013

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, in response to the letter of appeal to the Ontario Municipal Board, dated May 16, 2013 and submitted by 1875425 Ontario Inc. relating to Zoning By-law application No. Z-8132 concerning 275-277 Piccadilly Street, the Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its decision relating to this matter and sees no reason to alter it.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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April 9, 2013 – 1875425 Ontario Inc. This report recommended that the requested amendment to rezone the subject site **FROM** a Residential R2 (R2-2) zone which permits single detached, semi-detached, duplex and converted dwellings **TO** a Residential R8 (R8-3) Zone to permit, apartment buildings, handicapped persons apartment buildings, lodging house class 2, stacked townhousing, senior citizen apartment buildings, emergency care establishments and continuum-of-care facilities **BE REFUSED**

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The recommended action would advise the OMB that Municipal Council is in agreement with their previous decision on April 16, 2013 to refuse the requested amendment to the Zoning By-law to permit the redevelopment of the subject site for apartment buildings.

BACKGROUND

On December 18, 2012 an application for a Zoning By-Law amendment was submitted by the applicant to change the Zoning of the subject lands from a Residential R2 (R2-2) to a Residential R8 (R8-3) Zone. At a public participation meeting of the Planning and Environment Committee on April 9, 2013 Planning Staff recommended that the requested Zoning By-law amendment be refused for the following reasons:

- the current zoning for this area is appropriate, promotes neighbourhood stability, and allows redevelopment of residential properties in a manner which is compatible with the surrounding neighbourhood, consistent with the Provincial Policy Statement;
- opportunities for infill and intensification have already been provided in areas around the Piccadilly Neighbourhood;
- the site is currently developed at a higher density than what is currently permitted by the Zoning By-law and Official Plan and is not considered underutilized;
- the requested amendment is not consistent with the policies of the *Provincial Policy Statement, 2005* which encourage efficient development and land use patterns which

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- sustain the financial well-being of the municipality;
- the requested amendment is not consistent with the Residential Intensification policies of the Official Plan;
- the proposed amendment would constitute "spot" zoning, and is not considered appropriate in isolation from the surrounding neighbourhood;
- the site is not unique and does not have any special attributes which would warrant a site specific amendment; and
- the requested amendment could create opportunities for additional multiple unit residential uses and erode the residential character of the area.

On May 16, 2013, an appeal was submitted by 1875425 Ontario Inc., owner of 275-277 Piccadilly Street, in opposition to Council's refusal to adopt the requested Zoning By-law amendment. In the reason for the appeal of Council's decision, the appellant states:

- *The appeal is against the refusal of City Council to pass a zoning by-law to permit two new small apartment buildings containing a total of eleven (11) dwelling units within the two new buildings.*
- *The use permitted by the proposed zoning by-law is consistent with the Provincial Policy Statement including but limited to promoting efficient land use, development through intensification, and the efficient and cost effective use of infrastructure and public services.*
- *The use permitted by the proposed zoning by-law conforms to the City's Official Plan, including policies 3.1.1., 3.1.2., 3.2.1., 3.2.2., 3.2.3. and 3.7.2., as well as the City's policies in its Near Campus Neighbourhood Strategy. The zoning amendment is not a "spot" zoning. The subject land is of a shape and size that meets or exceeds the zone provisions and site plan matters in the City's Site Plan Control By-law.*

Copies of the appeal from 1875425 Ontario Inc, and the reasons for the appeal, are attached as appendix "A" to this report. A date for the Ontario Municipal Board hearing has not yet been scheduled. Planning Staff have reviewed the appeal letter and see no reason for Council to alter its decision relating to this matter.

ANALYSIS

The staff recommendation to maintain the existing zone is consistent with the Provincial Policy Statement given that the existing zoning:

- Implements a land use pattern which facilitates intensification based on densities and land uses which efficiently use land and resources; is appropriate for, and efficiently uses infrastructure; and promotes energy efficiency through the development of a more compact form;
- Identifies and promotes opportunities for intensification where it can be accommodated taking into account existing building stock;
- Sustaining healthy, livable and safe community by promoting efficient development patterns which sustain the financial well-being of the municipality;

The application is inconsistent with the Official Plan policies for the following reasons:

- Does not encourage an infill residential development where existing land uses are not adversely affected as per the General Objectives For All Residential Designations Section 3.1.1 vi);
- Does not minimize the potential for land use compatibility problems which may result from an inappropriate mix of higher intensity residential uses within the existing low density residential uses as per the goals of Section 3.1.1 vii);
- The proposal does not enhance the character and amenities of residential areas by directing higher intensity uses to locations where existing land uses are not adversely affected contrary to the Low Density Residential Objectives Section 3.1.2;

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- Is not identified as a permitted use under Section 3.2.1 (Permitted Uses);
- Exceeds the maximum scale of 30uph described in Section 3.2.2 (Scale of Development);
- Is not considered appropriate as “Residential Intensification” to qualify for increased density as per Section 3.2.3 (Residential Intensification);
 - o The proposal is not considered a means of providing opportunity for the efficient use of land and encouraging compact urban form. The existing zoning already contemplates this.
 - o The proposal does not meet the criteria of the Planning Impact Analysis as per Section 3.7 required for Residential Intensification proposals.
 - o The proposal does not use innovative and creative urban design techniques to ensure that character and compatibility with the surrounding neighbourhood are maintained.

The application is inconsistent with the Near Campus Neighbourhood policies for the following reasons:

- The preferred location and form of residential intensification is in the existing medium and high density residential designations in the form of medium to large scale apartments;
- There are several opportunities in proximity to the subject site that are more appropriate locations for residential intensification;
- The subject site is not considered unique in context with the surrounding lots and does not have any special attributes which would warrant a site-specific amendment within the local context;
- The proposal would set a negative precedent as several properties in the Piccadilly neighbourhood could be converted to inappropriate intensities that would also detract from the residential amenity character of the area;
- The proposal does not establish a positive or appropriate precedent for development proposals at similar locations within the near-campus neighbourhood areas;
- The subject site warrants intensification under the current zone that would be appropriate in size and scale and would provide a positive and appropriate precedent for similar developments.

This is considered spot rezoning for the following reasons:

- The subject site is not unique within its context as it is the size of two properties merged together and does not have any special attributes which would warrant a site specific amendment;
- The requested amendment constitutes “spot” rezoning and is not considered appropriate in isolation from the surrounding neighbourhood and can be intensified under existing zone in conformity with the area;

In general, compatibility issues occur when Low Density Residential lots are intensified by way of spot-zoning to accommodate an increasing number of residential units in proximity to lower density forms of housing;

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PREPARED BY:	SUBMITTED BY:
MIKE CORBY, PLANNER II COMMUNITY PLANNING AND DESIGN	JIM YANCHULA, MCIP, RPP MANAGER, COMMUNITY PLANNING AND DESIGN
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

May 28, 2013

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APPENDIX "A"



Environment and Land Tribunals Ontario
Ontario Municipal Board
655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
FAX: (416) 326-5370
www.elt.o.gov.on.ca

APPELLANT FORM (A1)
PLANNING ACT

SUBMIT COMPLETED FORM
TO MUNICIPALITY/APPROVAL AUTHORITY

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)



Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	34(19)
	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(11)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	38(4)
	<input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	17(24) or 17(36)
Interim Control By-law	<input type="checkbox"/> Appeal a decision	17(40)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	51(39)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	51(43) or 51(48)
	<input type="checkbox"/> Appeal a decision	51(34)
Plan of Subdivision	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	
	<input type="checkbox"/> Appeal a decision	

Part 2: Location Information

275 and 277 Piccadilly Street

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: **City of London**

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Part 3: Appellant Information

First Name: _____ Last Name: _____

1875425 Ontario Inc.

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: **196203 Grey Road 7, RR 4** **Meaford**
Street Address Apt/Suite/Unit# City/Town

Ontario **N4L 1W7**
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: **Alan** Last Name: **Patton**

Company Name: **Patton Cormier & Associates**

Professional Title: **Lawyers**

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: **Suite 1512 – 140 Fullarton Street, London, ON N6A 5P2**

Signature of Appellant:  _____ Date: **May 15, 2013**
Alan R. Patton

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

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Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

The refusal by Council to pass a Zoning By-law to rezone property municipally identified as 275-277 Piccadilly Street to a Residential R8-3 zone to permit two apartment buildings containing a total of eleven (11) apartments in the two new buildings.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

See attached page 4(a).

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE *PLANNING ACT*.

- a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: **DECEMBER 12, 2012**

(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

- b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:

***If more space is required, please continue in Part 9 or attach a separate page.*

See attached page 4(a).

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

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Part 6, #2.

The appeal is against the refusal of City Council to pass a zoning by-law to permit two new small apartment buildings containing a total of eleven (11) dwelling units within the two new buildings.

The use permitted by the proposed zoning by-law is consistent with the Provincial Policy Statement including but limited to promoting efficient land use, development through intensification, and the efficient and cost effective use of infrastructure and public services.

The use permitted by the proposed zoning by-law conforms to the City's Official Plan, including policies 3.1.1., 3.1.2., 3.2.1., 3.2.2., 3.2.3. and 3.7.2., as well as the City's policies in its Near Campus Neighbourhood Strategy. The zoning amendment is not a "spot" zoning. The subject land is of a shape and size that meets or exceeds the zone provisions and site plan matters in the City's Site Plan Control By-law.

Part 6, #2(b)

EXPLANATORY NOTE

The property municipally identified as 275-277 Piccadilly Street is zoned R2-2. It consists of two parcels of land, both of which are regularly shaped and total 0.43 of an acre in size. The property contains two separate buildings with a total of nine apartments. The building addressed as 275 Piccadilly Street contains five apartments and the building addressed as 277 Piccadilly Street contains four apartments.

The purpose of the desired zoning By-law change is to build two new three storey buildings with a total of eleven apartments in compliance with the City's R8-3 zone.